



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,583	03/18/2004	Gregoire Aby-Eva	441900	6158
27717	7590	04/28/2006	EXAMINER	
SEYFARTH SHAW LLP 55 E. MONROE STREET SUITE 4200 CHICAGO, IL 60603-5803			FRANCIS, FAYE	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

88

<b>Office Action Summary</b>	<b>Application No.</b> 10/803,583	<b>Applicant(s)</b> ABY-EVA ET AL.	
	<b>Examiner</b> Faye Francis	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5, 7-10 and 20 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 5 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Michel [6,467,711].

Michel discloses in Fig 1, a food chopper comprising: a housing 1 for receiving a food item, a blade assembly including a blade [knife 19] and moveable within the housing for chopping the food item, a shaft [plunger 11] attached to the blade assembly for movement therewith, a plunger assembly [cap 40 and push button 12] coupled to the shaft for effecting reciprocating and rotational movement thereof, and a shock absorber 18 disposed between the plunger assembly and the shaft [the bottom part of the shaft extends beyond the shock absorber] and a structure for latching the plunger assembly to the shaft [Fig 1].

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3725

4. Claims 2 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over Michel in view of Official Notice hereby taken that having a shock absorber that comprises an elastomeric material is well known in the art.

Michel discloses most of the elements of this claim as stated above but for the shock absorber comprises an elastomeric body.

In view of the Official Notice taken above that it is well known to use an elastomeric material as a shock absorber is well known in the art, it would have been obvious to make in the shock absorber in the device of Michel elastomeric in order to better protect the plunger assembly.

5. Claims 1, 5, 7-10 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Pedersen [6,793,168] in view of Michel.

Pedersen discloses in Figs 1-2, a food chopper comprising: a housing 28 for receiving a food item, a blade assembly including a blade [external milling surface 16 and internal milling surface 18] the blade assembly reciprocable and rotatable [see the abstract] within the housing for chopping the food item, a shaft 20 attached to the blade assembly for movement therewith, a plunger assembly [plunger 88 and movable sleeve 66] coupled to the shaft for effecting reciprocating and rotational movement thereof, and a structure for latching the plunger assembly to the shaft [Fig 2]. Additionally, Pedersen discloses a threaded connection between the shaft and the blade assembly [col 3 lines 17-18], a cooperating structure on the shaft and on the blade assembly for indicating when the shaft has been threadedly engaged with the blade assembly in a mounted condition [insofar as the applicant has claimed the threaded connection between the

Art Unit: 3725

shaft and the blade assembly is considered to correspond to the claimed cooperating structure], the blade assembly includes a cylindrical neck which is threadedly connected to and the shaft the neck is a hollow tubular construction which is internally threaded for threadedly receiving the shaft therein [where the threaded 22 on the shaft fits within the grinding wheel 14].

Pedersen does not disclose a shock absorber disposed between the plunger assembly and the shaft.

Michel teaches the concept of providing a chopping device having a plunger assembly and a shaft with shock absorber 18 disposed between the plunger assembly and the shaft. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Pedersen with the shock absorber disposed between the plunger assembly and the shaft as taught by Michel for added durability and in order to better protect the plunger assembly.

#### ***Allowable Subject Matter***

6. Claims 3-4, 6 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

7. Applicant's arguments filed 4/7/06 have been fully considered but they are not persuasive.

In response to applicant's argument in page 7, the device of Michel clearly shows in Fig 1 that the shock absorber 18 disposed between the plunger assembly and the

shaft as stated in the above rejection [the bottom part of the shaft however small extends beyond the shock absorber].

In response to applicant's argument on page 7 regarding the downward or upward movement. The examiner would like to point out that none of these would make the claims non obvious. Additionally, all of these have not been captured by the claims that only require a shock absorber that is disposed between the plunger assembly and the shaft.

Applicant's argument with respect to the rejection of claim 8 in view of the Michel reference has been considered but is moot since rejection no longer relied on.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

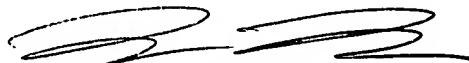
Art Unit: 3725

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Francis whose telephone number is 571-272-4423. The examiner can normally be reached on M-F 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571-272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FF



Faye Francis  
Primary Examiner  
Art Unit 3725